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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 NEAL SALES,)
9)
10 Plaintiff,)
11 vs.)
12 KIM ADAMSON, *et al.*,)
13 Defendants.)
_____)

3:17-cv-00186-RCJ-WGC

ORDER

Re: ECF No. 42

14 Before the court is Plaintiff's "Motion to Strike and Demand for Sanctions" (ECF No. 42).
15 Plaintiff contends Defendant's Answer (ECF No. 38) is untimely, and, therefore, should be stricken
16 pursuant to Fed. R. Civ. P. 12(f). Plaintiff also urges sanctions for Deputy Attorney General
17 Erin Albright's knowing violation of the rules. (*Id.*) Defendant has opposed the motion (ECF No. 43)
18 and Plaintiff has replied (ECF No. 45).

19 Plaintiff is an inmate incarcerated in the Nevada Department of Corrections (NDOC). On May 6,
20 2019, Plaintiff filed a Civil Rights Complaint pursuant to 42 U.S.C. § 1983 (ECF No. 6) for events that
21 allegedly occurred while Plaintiff was housed at Lovelock Correctional Center (LCC). (*Id.*) In the court's
22 Screening Order, District Judge Jones permitted Plaintiff's Eighth Amendment failure to protect claim
23 to proceed against Defendant Susan Baros (Defendant). (ECF No. 5 at 10.) Defendant Baros is the sole
24 Defendant in this action.

25 On July 18, 2018, Defendant filed a Notice of Acceptance of Service (ECF No. 24), notifying
26 Plaintiff that the Office of the Attorney General would accept service of process for Defendant Baros.
27 Defendant did not file an Answer, but, on September 6, 2018, filed a Motion for Summary Judgment.
28 (ECF No. 26.) The motion was fully briefed, and, on March 18, 2019, the undersigned filed his

1 Report and Recommendation denying the Motion for Summary Judgment. (ECF No. 34.)

2 On April 3, 2019, District Judge Jones issued his Order Adopting and Accepting the Report and
3 Recommendation. (ECF No. 37.) On April 10, 2019, Defendant filed her Answer to the Complaint.
4 (ECF No. 38.)

5 **1. Plaintiff's Motion to Strike Defendant's Answer**

6 As reflected above, Defendant filed a Notice of Acceptance of Service in this matter on July 18,
7 2018. (ECF No. 24.) By accepting service, Defendant is entitled to sixty (60) days to serve a responsive
8 pleading. *See* Fed. R. Civ. P. 4(d)(3). Defendant's Motion for Summary Judgment was filed on
9 September 6, 2018 (ECF No. 26), less than sixty (60) days after the notice of appearance was filed.
10 Therefore, Defendant's Motion for Summary Judgment was timely filed.

11 District Judge Jones' Order denying Defendant's Motion for Summary Judgment was filed on
12 April 3, 2019. (ECF No. 37.) Defendant's Answer (ECF No. 38) was filed April 10, 2019, seven (7) days
13 after Judge Jones entered his Order. Fed. R. Civ. P. 12(a)(4)(A), provides that a party is entitled to 21
14 days to file an answer after the court denies the motion. Defendant's Answer was filed well within the
15 statutory deadline. Therefore, Plaintiff's Motion to Strike Defendant's Answer is **DENIED**.

16 **2. Plaintiff's Request for Sanctions**

17 Plaintiff states that Deputy Attorney General Erin Albright should be referred for sanctions for
18 "her impertinent and contemptuous acts, and Failure to Adhere (sic) to court rules and for Ethical
19 Standards of A Professional bar Licensed Attorney." (ECF No. 42 at 3.) The court finds that there is no
20 evidence of this on the part of Deputy Attorney General Albright. Therefore, Plaintiff's request for
21 sanctions is **DENIED**.

22 **IT IS SO ORDERED.**

23 DATED: May 13, 2019.

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25 
26 WILLIAM G. COBB
27 UNITED STATES MAGISTRATE JUDGE
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